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THOMAS G. BRUTON
CLERK, U.S. DISTRICT COURT

1 Joseph Immanuel Shelton
2 (Listed as '91 Gaming Galaxy Shirts'
3 in schedule A See: Preliminary Injunction)
4 Defendant
5 Tulsa, OK 74129
6 918-577-0560
7 staglore@gmail.com

5 **IN THE UNITED STATES DISTRICT COURT**
6 **FOR THE NORTHERN DISTRICT OF ILLINOIS**
7 **EASTERN DIVISION**

8 THOSE CHARACTERS FROM CLEVELAND,

Case No. 23-cv-15080

9 Plaintiff,

Motion to Dismiss

10 vs.

11 THE INDIVIDUALS, CORPORATIONS,
12 LIMITED LIABILITY COMPANIES,
13 PARTNERSHIPS AND UNINCORPORATED
14 ASSOCIATIONS IDENTIFIED ON
15 SCHEDULE A HERETO,
16 Defendant,

16 **1. MOTION TO DISMISS**

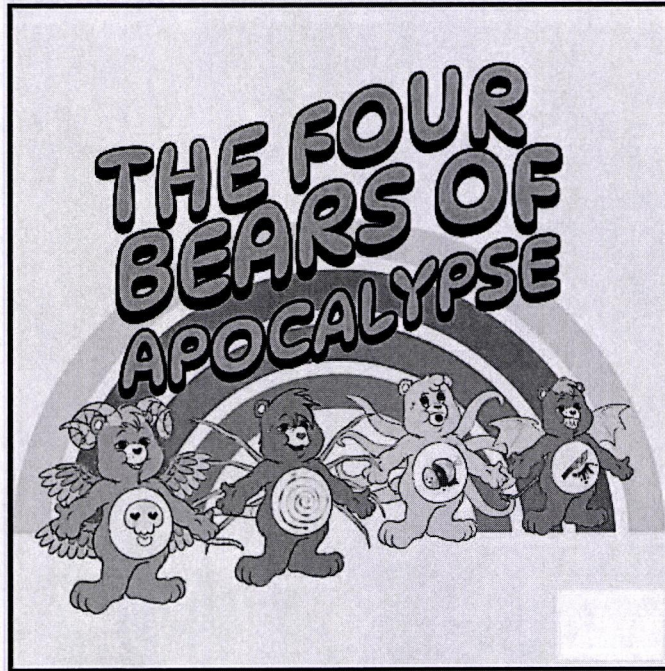
17 I am contesting the claims asserted against me in connection with my parody works
18 on teepublic. I believe the claim lacks merit, and I am filing this Motion to Dismiss pursuant to
19 Rule 12(b)(6) of the Federal Rules of Civil Procedure.

21 I, JOSEPH IMMANUEL SHELTON, AM ONE OF THE ALLEGED INFRINGER IN THIS
22 MATTER AND HEREBY MOVE TO DISMISS ALL CLAIMS IN THE CASE BROUGHT
23 AGAINST ME BY THOSE CHARACTERS FROM CLEVELAND, LLC.

24 I maintain that the claim is without legal basis and should be dismissed with prejudice. The
25 purpose of the work in question is to make humorous commentary about children's media. These
26 designs incorporate macabre and disturbing elements to parody popular characters and concepts.
27

28 MOTION TO DISMISS - 1

Example:



Pictured above are the 'Four Bear of Apocalypse'. This is a clear example of parody. By definition, a parody is a comedic commentary about a work that requires an imitation of the work. As demonstrated above these characters are combination of the Four Horseman of the Apocalypse and Carebear-like characters. Without the likeness to Carebears, parody is impossible. The antithetical combination of the macabre with child-like characters is a humorous commentary on societies obsession with both death and coddling of children. These two concepts combined are meant to illustrate human's contradictory viewpoints on the future (hope and despair). The characters, while somewhat similar to Carbears, have a number of differences. (wings, an eyeball for mouth, tentacles, rat tails, etc) This is a transformative work of parody, and parody falls

1 under **Fair Use** (17 U.S.C. § 107) (Campbell v. Acuff-Rose Music, Inc., 510 U.S. 569
2 (1994)) Carebears are a household name. No reasonable person viewing this work would
3 see it as anything but a parody.
4

5
6 The plaintiff's complaint also contends that I have acted as a criminal. They claim I
7 "operate under multiple fictitious names, there are numerous similarities among the
8 Defendants' Internet Stores." They assume my residence to be in "People's Republic of
9 China or other foreign jurisdictions." This claim is categorically false. I operate one
10 online store and live in the United States. ([https://www.teepublic.com/user/gaming-](https://www.teepublic.com/user/gaming-galaxy-shirts)
11 [galaxy-shirts](https://www.teepublic.com/user/gaming-galaxy-shirts)) I have one screen name: Staglore. I use this screen name for my personal
12 accounts as well. Including Facebook, which also uses my real name. This in direct
13 contradiction of the plaintiff's claim that I have not gone to "great lengths to conceal their
14 identities." While the plaintiff's claims might be true for some of the other defendants,
15 they categorically do not apply to me or my online store.
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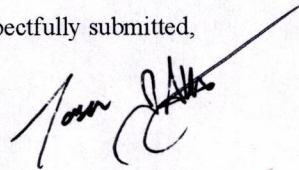
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19 I do not draw a large salary and live paycheck to paycheck. I simply cannot afford
20 prolonged litigation. I should not have to 'pay-to-play' in order to participate in my small
21 entrepreneurial endeavor.
22

23
24 Considering the foregoing, I respectfully request that the court dismiss the claims against
25 me with prejudice. I believe that the claims lacks legal merit and fails to establish a prima
26 facie case of copyright infringement.
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28

1 I hereby certify that a copy of this Motion to Dismiss has been served on William B.
2 Kalbac (attorney for the plaintiff) via email on 12/5/2023.
3

4 Dated: December 5, 2023
5

6 Respectfully submitted,
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10 Joseph I Shelton
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12 Defendant's Name
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